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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/841,518	04/24/2001	Gail M. Cunningham	5196-01 FSP	5647

7590 10/24/2005  
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EXAMINER

SAN MARTIN, EDGARDO

ART UNIT	PAPER NUMBER
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2837

DATE MAILED: 10/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

E/I

<b>Office Action Summary</b>	<b>Application No.</b> 09/841,518	<b>Applicant(s)</b> CUNNINGHAM, GAIL M.	
	<b>Examiner</b> Edgardo San Martin	<b>Art Unit</b> 2837	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 April 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/11/05</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 4 is objected to because of the following informalities:

- In line 2, it should read - - durometer - - instead of "diameter".

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 – 3 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Igarashi et al. (US 4,870,995).

With respect to claim 1, Igarashi et al. teach a method of dampening fluid-borne noise in an automotive power steering system which comprises directing power steering fluid through a power steering fluid hose (Fig.1, Item 30) having a laminated inner tube (Fig.1, Item 31) surrounded by a reinforcing outer tube (Fig.1, Item 32), the inner tube having a resilient inner layer (Fig.1, Item 31a) with a radial thickness T1 and a resilient outer layer (Fig.1, Item 31b) with a radial thickness T2, the inner layer being softer than the outer layer and being bonded by vulcanization to the outer layer, the radial thicknesses T1 and T2 having a ratio selected to dampen fluid-borne noise within a

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preselected frequency range by elastic radial expansion of the inner and outer layers (Col.2, Lines 1 – 55, Col.2, Line 63 – Col.3, Line 4 and Col.6, Lines 6 – 19).

With respect to claims 2 and 3, Igarashi et al. inherently teach wherein the ratio is in the range of 30:70 to 70:30, and wherein the ratio is 50:50 (Col.6, Lines 6 – 19).

With respect to claim 6, Igarashi et al. teach wherein the inner tube is of ethylene/acrylic elastomeric container, and the container tube is of peroxide-vulcanized acrylonitrile-butadiene copolymer (Col.3, Line 5 – Col.4, Line 68).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 4, 5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Igarashi et al. (US 4,870,995).

Igarashi et al. teach the limitations discussed in the previous rejection, but fail to explicitly disclose wherein the inner layer has a hardness in the range of 70 to 80 durometer; and wherein the preselected frequency range is 300 to 400 Hz.

The Examiner considers that it would have been an obvious matter of design choice to provide the inner layer with a hardness in the range of 70 to 80 durometer; and wherein the preselected frequency range is 300 to 400 Hz; since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering

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the optimum or working ranges involves only routine skill in the art. In re Aller, 105 USPQ 233; in addition, it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

### ***Conclusion***

4. The attached hereto PTO Form 892 lists prior art made of record that the Examiner considered it pertinent to applicant's disclosure.

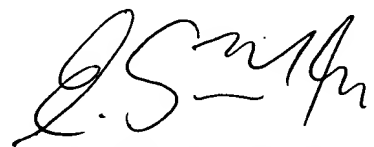
### ***Contact Information***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edgardo San Martin whose telephone number is (571) 272-2074. The examiner can normally be reached on 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on (571) 272-2107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'E. San Martin'.

Edgardo San Martin  
Primary Examiner  
Art Unit 2837  
Class 181  
October 17, 2005